principles which the states must apply in establishing rates for interconnection, unbundled network elements, or collocation. Development of a specific pricing standard may hamper the states in establishing a delicate balance between pricing for interconnection, resale, and unbundling and the continued effort to maintain universal service. Each state will have to address these questions based on the state's local companies' networks, costs, and operations of providing local service. These aspects clearly are different for every company throughout the country. If the FCC adopts specific pricing rules, some states will be unable to develop local competition that best serves not only the customer in the state but the carriers as well. Although we believe that the specific pricing standards for interconnection, unbundled network elements, and collocation should be left with the states, we would not be opposed to the FCC adopting specific pricing principles to be applied if the FCC, pursuant to section 252(e)(5), assumes full responsibility if a state does not act.

LRIC-Based Pricing Methodology

(126-127) Traditionally, a long run incremental cost (LRIC) analysis is dependent on the specified increment of demand that drives the analysis. While a LRIC analysis may be performed based on the total demand for a group of services, or for a quantity of demand less than the total demand for a service (such as the forecasted growth in demand for the next few years), it is now quite common for LRIC studies to be performed for the total quantity of a service. Where the studied increment is the entire quantity of a given service, such studies are also often referred to as total service long run incremental cost (TSLRIC) analyses. Thus, strictly speaking, the notions of LRIC and TSLRIC overlap.

We believe that the appropriate cost standard for setting a price floor for local interconnection and unbundled network elements provided by incumbent LECs to their competitors is TSLRIC. However, many parties assign different meanings to the same term and this has resulted in at least two conflicting notions of TSLRIC. For purposes of establishing price floors for local interconnection and unbundled network elements, we believe that TSLRIC should be defined as the firm's costs that will be avoided by discontinuing, or incurred by offering, an entire product or service, holding all other products or services offered by the firm constant. Here, TSLRIC examines the cost of providing the entire quantity of the service over the long term, while acknowledging that the selection of least cost technology is constrained somewhat based on the economics of adding to the array of telecommunications equipment in place in the network today.

Another prominent form of TSLRIC study assumes that all facilities are to be added "from scratch." We believe that such TSLRIC studies have perfectly legitimate applications; for example, the Benchmark Cost Model, which the FPSC provisionally endorsed in its universal service comments, incorporates this assumption. However, we do not believe that such analyses yield the appropriate price floor to be used in setting rates for local interconnection and unbundled network elements. We do not believe it is reasonable for TSLRIC calculations to assume that a LEC has complete freedom to reoptimize its input mix and facilities when a service is added to the existing product mix. Where the incumbent LEC is essentially the only source for a competitor to obtain needed functionalities or services (i.e., the LEC provides bottleneck inputs), the relevant notion of LRIC or TSLRIC should not be based on a "scorched earth" or "green field" analysis. This type of analysis assumes nothing is in place and the entire network is constructed from scratch based on the most cost-effective and efficient choice of technologies. We believe this would be an inappropriate cost standard for pricing bottleneck functions because it does not reflect the provider's current or prospective cost structure. We believe that a cost analysis where the mixture of technologies is based on the manner in which existing services will be provided over some specified planning horizon is appropriate.

(129) Then setting rates for local interconnection and unbundled network elements, we agree that some contribution to shared and common costs is appropriate. We do not believe it is appropriate to force the recovery of such shared and common costs solely from IXCs and end users while the new entrants receive the benefits of pricing at TSLRIC or LRIC.

Proxy-Based Outer Bounds for Reasonable Rates

(136-139) The FCC has asked if setting a cost-based rate ceiling based on a proxy would fulfill the statutory mandate of Section 252(d)(1) of the Telecommunications Act. The States should have total flexibility regarding the use of proxies. No specific rules regarding proxies need be issued by the FCC. If individual states believe that it is within their public interest to use proxies, then the decision to develop and implement proxies should be left up to the individual state. Since the needs and resources of individual states vary, it would not be appropriate to implement a national policy for proxies. The FPSC is still weighing the pros and cons for the use of proxies, especially in the area of universal service. Some arguments against the use of proxies revolve around the potential inaccuracies of the assumptions upon which proxies are based. Another argument centers on the relevance of the proxy model used. For example, the FCC wishes to know if the Benchmark Cost Model (BCM) serves as an appropriate proxy for constraining rates that states may set for interconnection and unbundled network elements. We believe the BCM is not relevant because it is not designed to identify these costs. The purpose of the model is to identify high-cost census block groups and identify the monthly costs for providing basic residential service within those census blocks.

Some proxy models, such as the Pacific Bell Proxy Model and the Hatfield Study, may not accurately reflect an incumbent local exchange company's decision making process for determining the economic and technical feasibility of interconnection. For example, when a firm determines its costs for providing an additional service, it will determine the incremental change in costs resulting from its decision to provide the additional service with its existing plant or facilities. The Pacific Bell and Hatfield proxy models take a "green field" or "scorched earth" approach toward determining costs. The green field or scorched earth approach assumes that the local exchange company has no facilities in place. Use of such proxies may not provide a good estimation of the local exchange company's costs of providing interconnection. This is not to say that if a proxy model that reflected the local exchange company's decision making process were developed that it should not be used. If a state identifies such a proxy and does not have the resources to obtain actual cost data, use of such a model may prove appropriate.

The FCC has offered three alternatives for establishing proxies. The first alternative uses generic or averaged cost data. Some measure of nationally-averaged costs would be used in lieu of actual local exchange company costs. There are problems with this approach. First, it imposes a national policy. Imposing a national policy ignores geographically divergent factors such as population density, terrain, and climate. Second, if a state has the resources to collect and use actual data, then use of actual data should be encouraged. Proxies may be used when actual data is not available, however. Third, the proxy should be relevant. The FCC offers use of the BCM as a generic cost study. As we discussed earlier, the BCM, as currently constructed, is not appropriate for identifying interconnection and unbundling costs to be used in rate setting.

The second method offered for establishing proxies is the use of rates in existing interconnection and unbundling arrangements between incumbent local exchange companies and other providers of local service. Rates for unbundled elements and interconnection should reflect the underlying network arrangements of each provider. Interconnection and unbundling rates should result from one of two scenarios. The rates should result from negotiations between the incumbent local exchange company and the competitive provider. If not, then the rates should result from an arrangement arbitrated by the respective state. Individual competitive providers of local service may have differing network arrangements. The differences in the competitor's network capabilities, size, and services offered will have an effect on the type and amount of unbundled elements the competitor needs. Network arrangements will also have an effect on where the competitor wishes to interconnect with the incumbent. One entrant's network arrangements and points of interconnection on the incumbent's network may differ from the network arrangements and points of interconnection for another entrant. Such differences should be reflected in the rates.

The FCC offers as a third possible method for establishing a price ceiling for local interconnection rates using existing interstate or intrastate access rates, charged for interconnection with IXCs and other access customers. Using the rates of subelements for local transport, such as the switched transport facilities termination, local switching, and access tandem switching may provide an appropriate ceiling for these unbundled elements.

Rate Structure

(149-153) In general, the FPSC endorses the view that costs should be recovered in a manner that reflects the way they are incurred. We support the position that a flat-rate charge is appropriate for dedicated facilities such as loops. In the case of shared facilities such as network switching, a variety of usage-sensitive and flat rate capacity charges may be appropriate. In theory, flat rate capacity charges for the "switch platform" may be a very logical pricing approach since the memory in the switch is used both for switching local calls and providing vertical services. However, flat rate capacity charges should be strictly one pricing option available to entrants. If flat rate capacity charges were the sole method for purchasing switching, this could create a barrier to entry for new local exchange service providers. Some entrants may not have sufficient traffic to economically justify the minimum capacity that could be purchased from the incumbent LEC. Federal oversight over rate structure matters should consist of broad guidelines (i.e., level 3).

(154) The incumbent LECs will probably not be interested in offering volume and term discounts in the wholesale context anytime soon. Volume and term discounts are typically offered to secure and retain customers who might otherwise purchase service from a competitor. For the foreseeable future, the incumbent LECs will be more interested in retaining and winning back retail customers, rather than securing and retaining wholesale customers. In addition, wholesale customers will often have little choice but to purchase needed services/components from the incumbent which gives the incumbent no incentive to offer volume and term discounts. Consequently, regardless of whether volume and term discounts are permitted, we believe the incumbent LECs will have little interest in offering wholesale discounts.

Interexchange Services, Commercial Mobile Radio Services, and Non-Competing Neighboring LECs

(159-163) Based on our reading of sections 251(c)(2) and (3) and the Joint Explanatory Statement of the Committee of Conference, we would agree with the FCC that the statute imposes limits on the purposes for which any telecommunications carrier, including interexchange carriers, could request interconnection. We interpret this section to apply to telecommunications carriers that provide telecommunications service within the local exchange. Telecommunications carriers would request interconnection with the incumbent local exchange carrier under this section to provide local exchange service. While we believe that interexchange carriers fall under the definition of telecommunications carriers, this section would apply to interexchange carriers that are acting as alternative or competitive local exchange companies(ALECs or

CLECs). We believe Congress intended that this section of the Act provide an impetus for competition within the local exchange, and that reasons for interconnecting with the incumbent local exchange company be for the purpose of providing local exchange service. We draw these conclusions based on the following reasons.

First, section 251(c)(2) requires that local exchange companies provide interconnection for the transmission and routing of telephone exchange service. Section 3 of the Communications Act of 1934 defines telephone exchange service as:

> service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange.

In other words, interconnection is to be provided for the transmission and routing of intraexchange service which is another phrase for local exchange service. We agree with the FCC that interexchange service and telephone exchange service are not the same.

Second, section 251(c)(2) requires that local exchange companies provide interconnection for the transmission and routing of exchange access. Companies that provide local exchange service provide access to the local exchange. Section 3 of the Telecommunications Act of 1934 defines "exchange access" as the offering of access to telephone exchange services or facilities for the purpose of originating or terminating telephone toll calls. This is not an interexchange service. It is a service provided by local exchange companies to interexchange companies.

Finally, in providing an explanation of section 251(c), the Congress intended that the additional obligations stated in section 251(c) ensure that the obligations in 251(b) are met. Section 251(b) imposes several duties on all local exchange carriers including the "new entrants" into the local exchange market. Based on the Joint Committee's explanation of section 251, we believe that 251(c) addresses interconnection for the purpose of providing telecommunications service within the local exchange.

Based on the above analysis, we believe that the FCC should promulgate rules that specify the purpose for which interconnection would be sought under section 251(c)(2) and (3). These rules should specify that interconnection is for the purpose of providing local exchange service; telecommunications carriers seeking interconnection under this section are seeking interconnection for the purpose of providing local exchange traffic.

The FCC has concluded that section 251(c)(2) does not apply to telecommunications carriers requesting such interconnection for the purpose of originating or terminating interexchange traffic. We agree with the FCC's conclusion. As we discussed earlier it is our belief that section 251 addresses interconnection between competing providers of local exchange service. This means that local exchange companies would have no obligation under section 251 to negotiate access charges with interexchange companies. We do not interpret section 251 as a means by which interexchange companies can circumvent the current mechanism for setting access rates or avoid the payment of access rates altogether. Access rates have been instrumental in the support of universal service. Avoiding the payment of access charges will lead to the erosion of support for universal service. Florida law segregates the setting of network access rates from local interconnection arrangements. Network access rates for local exchange companies in Florida that have elected price cap regulation are capped for three years. After the caps have expired and a local exchange company's intrastate and interstate switched access rates achieve parity, access rates can be adjusted annually based on the rate of inflation.

Because of the role that access rates play in the maintenance of universal service, interexchange companies should not be allowed to circumvent the existing mechanisms for establishing access rates. While it is not required by the Act, we anticipate and would encourage FCC efforts to close the gap between local and toll interconnection charges over time.

(166) The FCC is also seeking comment on whether or not interconnection arrangements between incumbent local exchange companies and commercial mobile radio service providers (CMRS) fall within the scope of Section 251(c)(2). As long as CMRS providers are seeking interconnection with the incumbent local exchange company for the purpose of providing local exchange service, CMRS would fall within the scope of section 251(c)(2) and fall within the definition of a telecommunications carrier. Incumbent local exchange carriers should follow the requirements specified in section 251(c) when CMRS providers approach local exchange companies to discuss interconnection to the network for the purpose of providing local exchange service. The FCC will have to implement rules that take into account a CMRS provider's wide calling scope. The FCC will have to specify in its rules that section 251 applies only to CMRS providers that provide local exchange service. A CMRS provider's local calling scope may contain more than one LATA, and hence a multiple number of exchanges. Since CMRS providers serve a wide calling scope, we are concerned that CMRS providers will be seeking interconnection arrangements for the purpose of carrying interexchange traffic. Specific rules limiting the purpose for which CMRS providers interconnect with local exchange companies under section 251 will alleviate this concern.

Resale Services and Conditions

(174,175,177) The FPSC agrees with the FCC's tentative conclusion on the relationship between Sections 251(b)(1) and 251(c)(4). All carriers are prohibited from imposing unreasonable restrictions on resale, but only incumbent LECS are required to provide retail services at wholesale rates to requesting telecommunications carriers. We believe the incumbent LECS should be required to justify as reasonable and nondiscriminatory any restrictions on resale that they impose. The FCC, as well as the state commissions, should not allow LECs to circumvent the resale of a specific service by withdrawing the tariff. If the language of the Act is interpreted to permit such an action, we believe a carrier could get that service or network feature via the unbundling provisions of the Act.

The resale of services should encompass all services including the LEC's discounted and promotional offerings. The FPSC is concerned with establishing **wholesale rates as described in section 252(c)(3) when the retail rates are priced below cost**. The Act does not appear to consider this fact when establishing wholesale rates pursuant to 252(d)(3). Although this will not be a problem for most services, the resale of flat-rate residential service and discounted and promotional offerings (without current tariff restrictions) may require incumbent LECs to take a loss on some of their resold services. **Florida Statutes prohibit the resale of any service below its cost**. Since Florida's price capped LECs may not be able to raise these retail rates, we believe it is inappropriate to require resale of services below cost. In addition to establishing wholesale rates that are below cost, Florida price capped LECs are not required to resell any currently tariffed, flat-rated, switched residential and business services until the LEC is permitted to provide inter-LATA services and video programming, but in no event before July 1, 1997. It appears Florida's resale restrictions for currently tariffed, flat-rated, switched residential and business services **may** be inconsistent with the Act if wholesale rates which are below costs are not considered unreasonable pursuant to 251(c)(4).

Relationship to Other Pricing Standards

(184) The FCC should not establish specific imputation requirements. We believe that if each state commission establishes rates for unbundled network elements which cover their costs and requires resale of all retail services at wholesale rates as required by section 252(c)(3), there is no need for the FCC to develop and require imputation.

Exemptions, Suspensions, and Modifications

The FPSC agrees with the FCC's conclusion that the states have exclusive jurisdiction to make determinations under section 251(f). It is not necessary to develop any national standards, other than those identified in the Act, to assist in the determination required under this section. However, we believe the FCC should codify the requirements of the Act for this section in rules.

Definition of Transport and Termination of Telecommunications

(230) Transport and termination of telecommunications under section 251(b)(5) is limited to the exchange of local exchange traffic between two competing providers of local exchange service. As we concluded earlier, section 251 addresses providing service within the local exchange. Local exchange companies have a duty, under section 251(b)(5) to establish reciprocal compensation arrangements for the termination and transport of local traffic between two competing local exchange companies. For example, if an alternative local exchange company wants to provide local exchange service within the an incumbent local exchange company's local serving area, the incumbent local exchange company has an obligation to establish reciprocal compensation arrangements for the termination and transport of local traffic between the two companies.

(231) We believe that the statute can be interpreted to allow for separate charges for transport and termination. Transport and termination work hand in hand, and both functions are needed for the overall movement of traffic. Both functions are distinct, however. **Transport** refers to the provision of a communications path between two or more points. **Termination** refers to the point on the network where the traffic is handed off to the local exchange carrier. This could be at an access tandem, local tandem, or end office switch. Because transport and termination are two distinct components in the overall movement of telecommunications traffic between two carriers, it is appropriate for separate charges to be applied.

(234) While section 252(d) prohibits the use of rate regulation proceedings to establish the additional costs for terminating and transporting calls, the rules implemented for this section should clarify that other proceedings, such as evidentiary hearings, are allowed for the purpose of arbitrating interconnection arrangements. In Florida, the evidentiary hearing process is used to determine interconnection rates when negotiations between local exchange and alternative local exchange carriers are unsuccessful.

These hearings are not rate of return regulation hearings and should be allowed.

The FCC should not establish a generic pricing methodology or impose a ceiling to guide the States in establishing transport and termination charges. Setting charges for the transport and termination of local exchange traffic should be left up to the States. Due to the unique geographical and demographic characteristics of each state, costs for transport and termination will vary. It should be left up to individual state commissions to determine rates for transport and termination based on the guidelines articulated in the Act.

Bill and Keep Arrangements

(243) Section 252(d)(2) provides the States the flexibility to implement bill and keep as an alternative compensation mechanism for the exchange of local traffic. The FCC seeks comment on whether limits should be placed on the circumstances under which bill and keep is adopted. In general, the FCC should not implement specific rules that detail limits on bill and keep. The individual states should determine what limits, if any, should be placed on bill and keep arrangements.

The FCC has made a number of suggestions regarding limits on bill and keep. One suggested limit is that transport and termination costs of both carriers be roughly in balance during peak periods. The problem with this approach is the definition of "roughly in balance." It should be left up to the States to determine the allowable amount of imbalance if this approach is chosen. Determining whether or not some range of imbalance in traffic flow should be allowed and then determining what that range of imbalance should be is a part of setting limits on bill and keep. Leaving the determination of the rate of imbalance up to the States falls in line with our earlier statement that setting limits on bill and keep should be left to the States.

The FCC suggests that if actual transport and termination costs are so low that there is little difference between a cost-based rate and a zero rate, then bill and keep would be appropriate. It should be left up to the individual state to determine whether the difference between a zero rate and a cost-based rate is significant and whether or not this difference has an impact on local competition. Such a determination would require knowledge of the minutes of use for the traffic exchanged between two providers. These minutes may differ between companies.

No matter which approach is used we believe it should be left up to the individual state to determine whether or not limits or caveats should be imposed on the establishment of bill and keep. No specific rules detailing limits on bill and keep need be promulgated by the FCC. Some states might find that imposing limits on the establishment of bill and keep may hinder competitive local exchange companies from entering the market. A national policy that mandates limits on establishing bill and keep should not be put in place. There appear to be a number of variants of the bill and keep method and it should be left up to each state to choose the variant that meets its needs.

Finally, the FCC has asked for comment on the meaning of the statutory description of bill and keep arrangements as "arrangements that waive mutual recovery." Waiver of mutual recovery means that a local exchange carrier does not receive a cash payment for terminating the traffic received from another local exchange carrier.

Respectfully submitted,

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